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H. R. 1700

To amend the Community Reinvestment Act and the Home Mortgage Disclosure Act of 1975 to improve the availability of credit on a nondiscriminatory basis.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 1993

Ms. WATERS (for herself, Mr. RANGEL, Mr. CLAY, Ms. NORTON, and Mrs. MEEK) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

JANUARY 24, 1994

Additional sponsors: Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. JEFFERSON

A BILL

To amend the Community Reinvestment Act and the Home Mortgage Disclosure Act of 1975 to improve the availability of credit on a nondiscriminatory basis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Community Reinvest-
5 ment Act Reform Act of 1993”.

1 **TITLE I—COMMUNITY CREDIT**
2 **AVAILABILITY IMPROVEMENTS**

3 **SEC. 101. REPORTING OF ACTUAL PERFORMANCE DATA.**

4 (a) IN GENERAL.—The Community Reinvestment
5 Act of 1977 (12 U.S.C. 2901 et seq.) is amended by add-
6 ing at the end the following new section:

7 **“SEC. 809. REPORTING OF ACTUAL PERFORMANCE DATA.**

8 “(a) ESTABLISHMENT REQUIRED.—The appropriate
9 Federal financial supervisory agencies shall jointly develop
10 a format for collecting data from regulated financial insti-
11 tutions, in connection with examinations under section
12 804 concerning such institutions’ record of meeting the
13 credit needs of their local communities, including low- and
14 moderate-income neighborhoods.

15 “(b) DATA REQUIRED.—The data required to be col-
16 lected under subsection (a) shall include the following:

17 “(1) HOME MORTGAGE LENDING.—

18 “(A) The aggregate number and dollar vol-
19 ume of single family conventional loans, govern-
20 ment insured or guaranteed loans, loans for
21 multi-family housing, and home improvement
22 loans originated by the institution and the ag-
23 gregate number of such loans initiated in neigh-
24 borhoods of different racial and income com-
25 positions.

1 “(B) The rate at which the institution re-
2 jects applications of various racial and income
3 groups and a comparison of such rate with the
4 rate of other institutions in the financial insti-
5 tution’s entire community.

6 “(C) The percentage of applications the fi-
7 nancial institution receives from minority and
8 low- and moderate-income persons in the insti-
9 tution’s entire community, expressed as a per-
10 centage of the institution’s overall applications,
11 and a comparison of such percentage with the
12 percentage of other institutions in the financial
13 institution’s entire community.

14 “(D) An analysis of the financial institu-
15 tion’s overall market share in the institution’s
16 entire community for each loan type and the in-
17 stitution’s market share in neighborhoods of
18 various income and racial compositions.

19 “(E) The nature and extent of the institu-
20 tion’s participation in affordable housing pro-
21 grams that benefit the institution’s entire com-
22 munity.

23 “(2) SMALL BUSINESS LENDING.—

24 “(A) The aggregate number and dollar vol-
25 ume of loans originated, with a separate break-

1 out for originations to minority-owned and
2 women-owned businesses and start-up busi-
3 nesses.

4 “(B) The aggregate number and dollar vol-
5 ume of loans originated under programs admin-
6 istered by the Small Business Administration,
7 with a separate break-out for minority-owned
8 and women-owned businesses.

9 “(C) The aggregate number and dollar vol-
10 ume of small business loans originated by the
11 financial institution, compiled on the basis of
12 the racial and income characteristics in the in-
13 stitution’s entire community.

14 “(3) COMMUNITY DEVELOPMENT.—

15 “(A) The number and dollar volume of
16 loans to nonprofit child care, mental health,
17 and literacy centers and to nonprofit developers
18 of affordable housing.

19 “(B) The financial institution’s participa-
20 tion in any community development project, in-
21 cluding a description of any partnerships devel-
22 oped with nonprofit community organizations,
23 that benefit the low- and moderate-income resi-
24 dents of the institution’s entire community.

1 “(4) CONSUMER LOANS.—A statistical analysis
2 of the number and dollar volume of consumer loans
3 compiled on the basis of the racial and income char-
4 acteristics of neighborhoods in the institution’s en-
5 tire community.

6 “(5) BRANCH CLOSURES.—

7 “(A) A compilation of the number of the
8 institution’s branches and other deposit facili-
9 ties in neighborhoods of various racial and in-
10 come characteristics within the institution’s
11 community.

12 “(B) An analysis of all openings and clos-
13 ings of branches and other deposit facilities by
14 the institution in the past 10 years in neighbor-
15 hoods of various racial and income characteris-
16 tics within the institution’s community.”.

17 (b) DATA REQUIRED IN PUBLIC SECTION OF RE-
18 PORT.—Section 807(b)(1) of the Community Reinvest-
19 ment Act of 1977 (12 U.S.C. 2906(b)(1)) is amended—

20 (1) by striking “and” at the end of subpara-
21 graph (B);

22 (2) by striking the period at the end of sub-
23 paragraph (C) and inserting “; and”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

1 “(D) contain the data required to be col-
2 lected with respect to the institution pursuant
3 to section 809.”.

4 **SEC. 102. ENHANCED OPPORTUNITIES FOR COMMUNITY**
5 **INPUT.**

6 Section 807 of the Community Reinvestment Act of
7 1977 (12 U.S.C. 2906) is amended by adding at the end
8 the following new subsection:

9 “(d) VIEWS OF CONSUMERS.—

10 “(1) IN GENERAL.—The appropriate Federal fi-
11 nancial supervisory agency shall actively solicit com-
12 ments, in writing and in person, for no fewer than
13 45 days prior to the issuance of a rating under sub-
14 section (b).

15 “(2) SPECIAL EMPHASIS.—In soliciting com-
16 ments under paragraph (1), the appropriate Federal
17 financial supervisory agency shall emphasize con-
18 tacts with low- and moderate-income and minority
19 residents of affected communities within the institu-
20 tion’s entire community, community groups rep-
21 resenting such residents, small businesses, and non-
22 profit organizations providing services in low- and
23 moderate-income communities.

24 “(3) INTERVIEWS WITH APPLICANTS FOR CRED-
25 IT.—Any examiner conducting an examination under

1 section 804 may interview any applicant for credit to
2 the regulated financial institution in order to deter-
3 mine whether there is evidence of any practice which
4 might tend to discourage an applicant from pursuing
5 an application for credit, including the discourage-
6 ment of an application on a prohibited basis.

7 “(4) EXTENSION OF COMMENT PERIOD.—If a
8 substantial number of requests are received by an
9 appropriate Federal financial supervisory agency for
10 public comment under paragraph (1), the agency
11 shall—

12 “(A) extend the comment period no fewer
13 than 75 days; and

14 “(B) hold a public hearing.”.

15 **SEC. 103. COLLECTION OF DATA ON SMALL BUSINESS AND**
16 **CONSUMER LOANS.**

17 Section 304(a)(1) of the Home Mortgage Disclosure
18 Act of 1975 (12 U.S.C. 2803(a)(1)) is amended by insert-
19 ing “, the number and total dollar amount of loans to
20 small business, by census tracts, and the number and total
21 dollar amount of personal loans to consumers, by census
22 tracts” before the period at the end.

1 **SEC. 104. RATING SYSTEM UNDER CRA.**

2 (a) 5 POINT RATING SYSTEM.—Section 807(b)(2) of
3 the Community Reinvestment Act of 1977 (12 U.S.C.
4 2906(b)(2)) is amended—

5 (1) by redesignating subparagraphs (C) and
6 (D) as subparagraphs (D) and (E), respectively, and
7 by inserting after subparagraph (B) the following
8 new subparagraph:

9 “(C) ‘Qualified record of meeting commu-
10 nity credit needs which needs to improve.’”; and

11 (2) in subparagraph (D) (as so redesignated by
12 paragraph (1) of this subsection), is amended by
13 striking “Needs” and inserting “Substantial and im-
14 mediate need”.

15 (b) RATING INTEGRITY.—Section 807(b) of the Com-
16 munity Reinvestment Act of 1977 (12 U.S.C. 2906(b)) is
17 amended by adding at the end the following new
18 paragraph:

19 “(3) RATING INTEGRITY.—No financial institu-
20 tion may receive a rating described in subparagraph
21 (A) or (B) of paragraph (2) unless such institution
22 has actually extended significant amounts of credit
23 in low-income neighborhoods and has not merely
24 been in compliance with a plan for extending such
25 credit in the future.”.

1 (c) PROMPT CORRECTIVE ACTION.—The Community
2 Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is
3 amended by adding after section 809 (as added by section
4 101 of this Act) the following new section:

5 **“SEC. 810. PROMPT CORRECTIVE ACTION.**

6 “(a) ACTION REQUIRED.—

7 “(1) QUALIFIED RECORD OF MEETING COMMU-
8 NITY CREDIT NEEDS WHICH NEEDS TO IMPROVE.—

9 “(A) SUBMISSION OF PLAN.—Any regu-
10 lated financial institution which receives a rat-
11 ing of ‘qualified record of meeting community
12 credit needs which needs to improve’ shall sub-
13 mit, to the appropriate Federal financial super-
14 visory agency, a plan for improving the institu-
15 tion’s performance with respect to meeting the
16 credit needs of the institution’s entire commu-
17 nity, including low- and moderate-income neigh-
18 borhoods, by the end of the 6-month period be-
19 ginning on the date the institution receives such
20 rating under this Act.

21 “(B) REDUCTION OF RATING FOR FAILURE
22 TO COMPLY.—If a regulated financial institu-
23 tion described in subparagraph (A) fails to sub-
24 mit a plan under such subparagraph which is
25 acceptable to the appropriate Federal super-

visory agency before the end of the _____-
month period beginning on the date the rating
referred to in such subparagraph is received by
the institution, the institution's rating under
section 807(a)(2) as of the end of such period
shall be deemed to be 'substantial and imme-
diate need to improve record of meeting com-
munity credit needs' for purposes of this Act,
including paragraph (2).

“(2) SUBSTANTIAL AND IMMEDIATE NEED TO
IMPROVE RECORD OF MEETING COMMUNITY CREDIT
NEEDS.—

“(A) SUBMISSION OF PLAN.—Any regu-
lated financial institution which receives a rat-
ing of 'substantial and immediate need to im-
prove record of meeting community credit
needs' shall submit, to the appropriate Federal
financial supervisory agency before the end of
the 30-day period beginning on the date the in-
stitution receives such rating under this Act, a
plan for substantially improving the institu-
tion's performance with respect to meeting the
credit needs of the institution's entire commu-
nity, including low- and moderate-income neigh-

1 borhoods, by the end of the 6-month period be-
2 ginning on such date.

3 “(B) PUBLIC HEARING.—

4 “(i) IN GENERAL.—The appropriate
5 Federal financial supervisory agency shall
6 hold a public hearing on the adequacy of
7 any plan submitted pursuant to subpara-
8 graph (A) before the end of the 30-day pe-
9 riod beginning on the date the plan is sub-
10 mitted to the agency.

11 “(ii) NOTICE OF HEARING.—The ap-
12 propriate Federal financial supervisory
13 agency shall provide adequate notice in the
14 regulated financial institution’s entire com-
15 munity, including low- and moderate-in-
16 come neighborhoods, of any hearing con-
17 ducted under clause (i).

18 “(C) REDUCTION OF RATING FOR FAILURE
19 TO COMPLY.—If a regulated financial institu-
20 tion described in subparagraph (A) fails to sub-
21 mit a plan under such subparagraph which is
22 acceptable to the appropriate Federal super-
23 visory agency before the end of the _____-
24 month period beginning on the date the rating
25 referred to in such subparagraph is received by

1 the institution, the institution's rating under
2 section 807(a)(2) as of the end of such period
3 shall be deemed to be 'substantial noncompli-
4 ance in meeting community credit needs' for
5 purposes of this Act, including paragraph (3).

6 “(3) SUBSTANTIAL NONCOMPLIANCE IN MEET-
7 ING COMMUNITY CREDIT NEEDS.—

8 “(A) PROMPT CORRECTIVE ACTION RE-
9 QUIRED.—If a regulated financial institution re-
10 ceives a rating of 'substantial noncompliance in
11 meeting community credit needs', the appro-
12 priate Federal supervisory agency shall—

13 “(i) treat such rating as a violation of
14 the requirements of this Act; and

15 “(ii) promptly take such corrective ac-
16 tion as may be necessary to ensure that
17 such institution meets the credit needs of
18 the institution's entire community, includ-
19 ing low- and moderate-income neighbor-
20 hoods, as soon as practicable.

21 “(B) MONTHLY LOAN ACTIVITY REPORTS
22 REQUIRED.—Any regulated financial institution
23 which receives a rating of 'substantial non-
24 compliance in meeting community credit needs'
25 shall submit a monthly report to the appro-

1 appropriate Federal supervisory agency on the ac-
2 tions the institution has taken during the pe-
3 riod covered by the report to meet the credit
4 needs of the low- and moderate-income neigh-
5 borhoods in the institution's community.

6 “(C) ADDITIONAL SUPERVISION.—The ap-
7 propriate Federal supervisory agency shall pro-
8 vide such additional supervision of an institu-
9 tion described in subparagraph (A) as may be
10 necessary, including conducting special exami-
11 nations, to ensure that such institution is—

12 “(i) in compliance with all plans ap-
13 proved by the agency for substantially im-
14 proving the institution's performance with
15 respect to meeting the credit needs of the
16 institution's entire community, including
17 low- and moderate-income neighborhoods;
18 and

19 “(ii) making all possible progress to-
20 wards meeting such credit needs.

21 “(b) ADMINISTRATIVE ENFORCEMENT.—

22 “(1) IN GENERAL.—Compliance with the re-
23 quirements imposed under this Act shall be enforced
24 under section 8 of the Federal Deposit Insurance

1 Act by the appropriate Federal financial supervisory
2 agency.

3 “(2) ADDITIONAL ENFORCEMENT POWERS.—

4 “(A) VIOLATION OF THIS ACT TREATED AS
5 VIOLATION OF OTHER ACT.—For purposes of
6 the exercise by any appropriate Federal finan-
7 cial supervisory agency of the agency’s powers
8 under the Federal Deposit Insurance Act, a vio-
9 lation of a requirement imposed under this Act
10 shall be deemed to be a violation of a require-
11 ment imposed under that Act.

12 “(B) ENFORCEMENT AUTHORITY UNDER
13 OTHER ACTS.—In addition to the powers of any
14 appropriate Federal financial supervisory under
15 the Federal Deposit Insurance Act, each such
16 agency may exercise, for purposes of enforcing
17 compliance with any requirement imposed
18 under this Act, any other authority conferred
19 on such agency by law.”.

20 **TITLE II—COMMUNITY SUPPORT** 21 **REQUIREMENTS**

22 **SEC. 201. COMMUNITY SUPPORT OBLIGATIONS OF MORT-** 23 **GAGE BANKS.**

24 (a) IN GENERAL.—Each mortgage bank shall have
25 an ongoing responsibility to meet the credit needs of all

1 the communities in which such bank makes a significant
2 number of extensions of credit or extends a significant
3 amount of credit, including extensions of credit in low- and
4 moderate-income neighborhoods of such communities.

5 (b) DEFINITIONS.—For purposes of this title—

6 (1) MORTGAGE BANK.—The term “mortgage
7 bank” means any lender who does not accept depos-
8 its and originates housing related loans.

9 (2) OFFICE.—The term “Office” means the Of-
10 fice of Mortgage Bank and Insurance Supervision
11 established by the Secretary of Housing and Urban
12 Development pursuant to section 202.

13 (3) SECRETARY.—The term “Secretary” means
14 the Secretary of Housing and Urban Development.

15 **SEC. 202. ESTABLISHMENT OF OFFICE OF MORTGAGE BANK**
16 **AND INSURANCE SUPERVISION.**

17 The Secretary of Housing and Urban Development
18 shall establish within the Department of Housing and
19 Urban Development an office to be known as the Office
20 of Mortgage Bank and Insurance Supervision to evaluate
21 the community support performance of mortgage banks
22 and mortgage insurance companies.

1 **SEC. 203. MORTGAGE BANK COMMUNITY SUPPORT STATE-**
2 **MENTS.**

3 (a) IN GENERAL.—The Office shall, on a biennial
4 basis, require each mortgage bank to submit to the Office
5 a community support statement, detailing the efforts of
6 such bank at meeting the housing credit needs of each
7 community in which the bank makes a significant number
8 of extensions of credit or extends a significant amount of
9 credit, including extensions of credit in low- and moderate-
10 income neighborhoods of such communities.

11 (b) CONTENTS.—The statement submitted by each
12 mortgage bank under subsection (a) shall include—

13 (1) the data required to be maintained and dis-
14 closed by the lender under the Home Mortgage Dis-
15 closure Act of 1975 for the previous 2 years, in a
16 format which the Office shall establish;

17 (2) underwriting criteria employed by the bank
18 for all of the bank's housing loan products;

19 (3) descriptions of any activity the bank has
20 undertaken over the period under review to ascertain
21 and meet identified credit needs in low- and mod-
22 erate-income neighborhoods within communities in
23 which the bank makes a significant number of exten-
24 sions of credit or extends a significant amount of
25 credit, including any partnerships formed with com-
26 munity-based organizations, nonprofit developers of

1 affordable housing, or agencies of State or local gov-
2 ernment;

3 (4) details of any findings of technical or sub-
4 stantive violations of the Equal Credit Opportunity
5 Act or the Fair Housing Act, and any settlements
6 or judgments arising from any such findings; and

7 (5) any other information the Office may re-
8 quire.

9 **SEC. 204. MORTGAGE BANK COMMUNITY SUPPORT EVAL-**
10 **UATION.**

11 The Office shall determine whether a mortgage bank
12 is maintaining an adequate community support perform-
13 ance, based on—

14 (1) community support performance statements
15 received from mortgage banks;

16 (2) an analysis of the data required to be main-
17 tained and disclosed by the lender under the Home
18 Mortgage Disclosure Act of 1975 for the previous 2
19 years with respect to metropolitan statistical areas
20 in which the bank originates a significant number of
21 home loans, which shall emphasize—

22 (A) the institution's market share in neigh-
23 borhoods of different racial and income charac-
24 teristics;

1 (B) the number of applications received
2 from minorities and low- and moderate-income
3 persons; and

4 (C) the rate at which the institutions re-
5 jects applications from minority and white ap-
6 plicants;

7 (3) any evidence of illegal discriminatory credit
8 practices, including prescreening, or offering less fa-
9 vorable loan products to applicants of different ra-
10 cial backgrounds; and

11 (4) public comment, which shall be received by
12 the agency for not less than 90 days after the Office
13 actively solicits comment solicitations of comment
14 through notice in the Federal Register and regular
15 communications with community based organiza-
16 tions.

17 **SEC. 205. PENALTIES FOR FINDING OF INADEQUATE COM-**
18 **MUNITY SUPPORT PERFORMANCE BY MORT-**
19 **GAGE BANKS.**

20 (a) REMEDIAL ACTION.—If the Secretary finds that
21 a mortgage bank is maintaining an inadequate level of
22 community support, the Secretary may issue an order—

23 (1) requiring the bank to file a community sup-
24 port action plan with the Office not more than 90
25 days after the finding, which shall include concrete

1 goals and timetables for correcting identified defi-
2 ciencies; and

3 (2) prohibiting the bank from using any pro-
4 gram or product administered by the Secretary until
5 all identified deficiencies are met.

6 (b) CEASE AND DESIST ORDERS.—

7 (1) ISSUANCE OF ORDER.—

8 (A) IN GENERAL.—If the Secretary deter-
9 mines that there is reasonable cause to believe
10 that a mortgage bank is violating, has violated,
11 or is about to violate an order under subsection
12 (a) or a community support action plan filed
13 pursuant to such an order, the Secretary may
14 issue an order requiring the mortgage bank
15 to—

16 (i) cease and desist from any such vio-
17 lation; and

18 (ii) take such affirmative action to
19 prevent the occurrence or the continuance
20 of such violation as the Secretary deter-
21 mines to be appropriate.

22 (B) NOTICE OF CHARGES.—An order is-
23 sued under this paragraph shall include a notice
24 of the charges on which the order is based and

1 a statement of the facts constituting the alleged
2 violation.

3 (C) EFFECTIVE PERIOD.—An order issued
4 under this paragraph shall—

5 (i) become effective upon service to
6 the mortgagee; and

7 (ii) remain effective and enforceable
8 pursuant to the terms of the order unless
9 modified or rescinded by the Secretary or
10 pursuant to an order of a court under
11 paragraph (3) or in connection with the
12 court's review of any administrative pro-
13 ceedings with respect to the order issued
14 under this subsection.

15 (2) HEARING.—Any mortgage bank which re-
16 ceives an order under paragraph (1) shall be af-
17 forded an opportunity for a hearing on the record by
18 the Secretary as soon as practicable but not later
19 than 20 days after the order has been served.

20 (3) JUDICIAL HEARING.—Within 10 days after
21 a mortgage bank has been served with a cease-and-
22 desist order under this subsection, the bank may
23 apply to the United States district court for the ju-
24 dicial district in which the home office of the bank
25 is located, or the United States District Court for

1 the District of Columbia, for an injunction setting
2 aside, limiting, or suspending the enforcement, oper-
3 ation, or effectiveness of such order pending the
4 completion of the administrative proceedings pursu-
5 ant to the notice of charges served upon the bank,
6 and such court shall have jurisdiction to issue such
7 injunction.

8 (4) JUDICIAL ENFORCEMENT.—The Secretary
9 may apply to the United States district court, or the
10 United States court of any territory, within the ju-
11 risdiction of which the home office of the mortgagee
12 is located, for an injunction to enforce any effective
13 and outstanding order issued under this subsection
14 and, if the court determines that there has been a
15 violation or threatened violation of such order, the
16 court shall issue such injunction.

17 (c) CIVIL MONEY PENALTY.—

18 (1) IMPOSITION OF PENALTY.—

19 (A) IN GENERAL.—The Secretary may im-
20 pose a civil money penalty on any mortgage
21 bank, and any director, officer or employee of
22 a mortgage bank, who violates any order issued
23 under subsection (a) or (b).

1 (B) AMOUNT OF PENALTY.—The amount
2 of the penalty, as determined by the Secretary,
3 may not exceed—

4 (i) in the case of a violation of an
5 order issued under subsection (a), \$10,000
6 for each month during which such violation
7 occurs; and

8 (ii) in the case of a violation of an
9 order issued under subsection (b), \$10,000
10 for each day during which such violation
11 continues.

12 (C) NOTIFICATION TO ATTORNEY GEN-
13 ERAL.—Before taking action to impose a civil
14 money penalty for a violation under subpara-
15 graph (A), the Secretary shall inform the Attor-
16 ney General of the United States.

17 (2) ASSESSMENT.—

18 (A) WRITTEN NOTICE.—Any penalty im-
19 posed under paragraph (1) may be assessed and
20 collected by the Secretary by written notice.

21 (B) FINALITY OF ASSESSMENT.—If, with
22 respect to any assessment under subparagraph
23 (A), a hearing is not requested pursuant to
24 paragraph (5) within the period of time allowed

1 under such paragraph, the assessment shall
2 constitute a final and unappealable order.

3 (3) AUTHORITY TO MODIFY OR REMIT PEN-
4 ALTY.—The Secretary may compromise, modify, or
5 remit any penalty which the Secretary may assess or
6 already has assessed under paragraph (1).

7 (4) MITIGATING FACTORS.—In determining the
8 amount of a penalty under paragraph (1) with re-
9 spect to any person, the Secretary shall take into ac-
10 count the appropriateness of the penalty with re-
11 spect to—

12 (A) the gravity of the offense;

13 (B) any history of previous violations by
14 the person;

15 (C) the ability of the person to pay the
16 penalty;

17 (D) injury to the public;

18 (E) benefits received by the person as a re-
19 sult of the violation;

20 (F) the deterrent effect of the penalty on
21 future violations by such person and other per-
22 sons; and

23 (G) such other factors as the Secretary
24 may determine in regulations to be appropriate.

1 (5) HEARING.—The person against whom a
2 civil money penalty is assessed under paragraph (1)
3 shall be afforded an opportunity for a hearing on the
4 record, if such person submits a request for such
5 hearing within 20 days after the issuance of the no-
6 tice of the assessment.

7 (6) COLLECTION.—

8 (A) REFERRAL.—If any person fails to pay
9 an assessment after any penalty assessed under
10 this subsection has become final, the Secretary
11 shall notify the Attorney General who shall re-
12 cover the amount assessed in the appropriate
13 United States district court.

14 (B) APPROPRIATENESS OF PENALTY NOT
15 REVIEWABLE.—In any civil action under sub-
16 paragraph (A), the validity and appropriateness
17 of the penalty shall not be subject to review.

18 (7) DISBURSEMENT.—All penalties collected
19 pursuant to this subsection shall be deposited into
20 the Treasury of the United States.

21 (8) AGENCY PROCEDURES—The Secretary
22 shall, by regulation, establish standards and proce-
23 dures for carrying out this subsection.

1 **SEC. 206. COMMUNITY SUPPORT REQUIREMENTS FOR**
2 **MORTGAGE INSURANCE COMPANIES.**

3 (a) IN GENERAL.—Each mortgage insurance com-
4 pany shall—

5 (1) report to the Office the number and total
6 dollar amount of each mortgage insurance policy
7 written by the company, by census tract, the race,
8 gender, and income of applicants for mortgage in-
9 surance, and the disposition of each application for
10 mortgage insurance;

11 (2) demonstrate to the Secretary adequate sup-
12 port for community credit needs; and

13 (3) make public to any person the underwriting
14 criteria for any mortgage insurance the company of-
15 fers.

16 (b) 2-YEAR REPORTING REQUIREMENT.—At least
17 once during each 2-year period beginning after the date
18 of enactment of this Act, each mortgage insurance com-
19 pany shall submit a report to the Office containing the
20 following information:

21 (1) ADEQUACY OF AVAILABILITY OF MORTGAGE
22 INSURANCE.—The extent to which adequate mort-
23 gage insurance is available in low- and moderate-in-
24 come and minority neighborhoods within areas in
25 which the company writes a significant number of
26 mortgage insurance policies.

1 (2) UNDERWRITING GUIDELINES.—The extent
2 to which underwriting guidelines used by the com-
3 pany do not unreasonably restrict access to low- and
4 moderate-income families within areas in which the
5 company writes a significant number of mortgage in-
6 surance policies.

7 (c) DUTIES OF THE OFFICE.—The Office shall con-
8 duct biennial community support reviews of mortgage in-
9 surance companies including analysis of the following:

10 (1) The data collected by the Agency on the
11 distribution of the mortgage insurance company's
12 policies by census tract and data on the disparate
13 treatment of applicants for mortgage insurance
14 based on the applicants' race, gender, and income.

15 (2) The underwriting criteria employed by the
16 company and the extent to which such criteria do
17 not unreasonably restrict access to credit for low-
18 and moderate-income and minority persons or neigh-
19 borhoods.

20 (3) Community support statements received
21 from the mortgage insurance company.

22 (4) Any other information the Secretary may
23 require mortgage insurance companies to submit.

24 (5) Any comments received from the public on
25 the community support performance of the mortgage

1 insurance company during the period covered by the
2 review under this paragraph.

3 (d) DUTIES OF THE SECRETARY.—The Secretary
4 shall—

5 (1) solicit and accept public comment for no
6 fewer than 90 days before issuing a finding in con-
7 nection with the review of a mortgage insurance
8 company under subsection (c)(2); and

9 (2) review the community support performance
10 of each mortgage insurance company and determine
11 whether the company is providing an adequate level
12 of community support in the areas in which such
13 company writes a significant number of mortgage in-
14 surance policies.

15 (e) PERFORMANCE STATEMENT.—If, after reviewing
16 any evidence, the Secretary concludes that a mortgage in-
17 surance company is not meeting the requirements of this
18 section, the Secretary may require such company to sub-
19 mit a statement indicating how the company expects to
20 improve its record of providing community support.

TITLE III—PATTERN OR PRACTICE

SEC. 301. PATTERN OR PRACTICE TAKEN INTO ACCOUNT IN CONNECTION WITH DEPOSIT FACILITY APPLICATIONS.

Section 804 of the Community Investment Act of 1977 (12 U.S.C. 2903) is amended—

(1) by striking “In connection with” and inserting “(a) IN GENERAL.—In connection with”; and

(2) by adding at the end the following new subsection:

“(b) PATTERN OR PRACTICE.—In considering an application for a deposit facility by a regulated financial institution, the appropriate Federal financial supervisory agency shall—

“(1) consider whether the institution has, during the 10 years prior to the filing of the application, exhibited a pattern or practice of opening or closing branches in a way that tends to exclude low- or moderate-income or minority neighborhoods; and

“(2) accept public comment for no fewer than 90 days before making any determination as to whether the affected institution has provided affordable and accessible deposit and branch banking serv-

1 ices to low- and moderate-income and minority con-
 2 sumers within the institution’s entire community.

3 “(c) DENIAL OF APPLICATION.—If the appropriate
 4 Federal financial supervisory agency determines, under
 5 subsection (b)(1), that a regulated financial institution
 6 has exhibited a pattern or practice of opening or closing
 7 branches in a way that tends to exclude low- and mod-
 8 erate-income or minority communities, the agency shall
 9 deny the pending application, notwithstanding the institu-
 10 tion’s compliance with any other applicable provision of
 11 law.”.

12 **SEC. 302. PATTERN OR PRACTICE TAKEN INTO ACCOUNT IN**
 13 **CONNECTION WITH CERTAIN BANK HOLDING**
 14 **COMPANY APPLICATIONS.**

15 The Bank Holding Company Act of 1956 (12 U.S.C.
 16 1841, et seq.) is amended—

17 (1) by redesignating sections 11 and 12 as sec-
 18 tions 12 and 13, respectively; and

19 (2) by inserting after section 10 the following
 20 new section:

21 **“SEC. 11. PATTERN OR PRACTICE OF CLOSING DEPOSIT FA-**
 22 **CILITIES.**

23 “(a) IN GENERAL.—In considering an application
 24 which is subject to this section, the Board shall—

1 “(1) consider whether the applicant or any
2 bank or savings association affiliate of the applicant,
3 during the 10 years prior to the filing of the applica-
4 tion, exhibited a pattern or practice of opening or
5 closing branches in a way that tends to exclude low-
6 or moderate-income or minority neighborhoods; and

7 “(2) accept public comment for no fewer than
8 90 days before making any determination as to
9 whether the applicant and any bank or savings asso-
10 ciation affiliate of the applicant has provided afford-
11 able and accessible deposit and branch banking serv-
12 ices to low- and moderate-income and minority con-
13 sumers within the applicant’s or the affiliate’s entire
14 community.

15 “(b) APPLICATIONS SUBJECT TO THIS SECTION.—
16 The following applications shall be subject to this section:

17 “(1) Any application under section 3(a) by—

18 “(A) any bank holding company to acquire
19 control of another bank or bank holding com-
20 pany; or

21 “(B) any bank to acquire control of an-
22 other bank or any bank holding company.

23 “(2) Any application by a bank holding com-
24 pany to engage in, or any notice by a bank holding
25 company of such company’s intention to engage in,

1 (as the case may be) any activity (or to acquire the
2 shares of any company engaged in any activity) de-
3 scribed in any paragraph of section 4(c).

4 “(c) DENIAL OF APPLICATION.—The Board may not
5 approve an application which is subject to this section
6 (and, in the case of a notice of an acquisition or activity,
7 for which the Board’s approval is not required, the Board
8 shall disapprove the acquisition or activity) if the Board
9 determines that the applicant or any bank or savings asso-
10 ciation affiliate of the applicant has exhibited a pattern
11 or practice of opening or closing branches in a way that
12 tends to exclude low- and moderate-income or minority
13 communities.”.

14 **SEC. 303. PATTERN OR PRACTICE TAKEN INTO ACCOUNT IN**
15 **CONNECTION WITH CERTAIN SAVINGS AND**
16 **LOAN HOLDING COMPANY APPLICATIONS.**

17 Section 10 of the Home Owners’ Loan Act (12 U.S.C.
18 1467a) is amended by adding at the end the following new
19 subsection:

20 “(t) PATTERN OR PRACTICE OF CLOSING DEPOSIT
21 FACILITIES.

22 “(1) IN GENERAL.—In considering an applica-
23 tion which is subject to this subsection, the Director
24 shall—

1 “(A) consider whether the applicant or any
2 bank or savings association affiliate of the ap-
3 plicant, during the 10 years prior to the filing
4 of the application, exhibited a pattern or prac-
5 tice of opening or closing branches in a way
6 that tends to exclude low- or moderate-income
7 or minority neighborhoods; and

8 “(B) accept public comment for no fewer
9 than 90 days before making any determination
10 as to whether the applicant and any bank or
11 savings association affiliate of the applicant has
12 provided affordable and accessible deposit and
13 branch banking services to low- and moderate-
14 income and minority consumers within the ap-
15 plicant’s or the affiliate’s entire community.

16 “(2) APPLICATIONS SUBJECT TO THIS SEC-
17 TION.—The following applications shall be subject to
18 this subsection:

19 “(A) Any application under subsection (e)
20 by—

21 “(i) any savings and loan holding
22 company to acquire control of another sav-
23 ings association or savings and loan hold-
24 ing company; or

1 “(ii) any savings association to ac-
2 quire control of another savings association
3 or any savings and loan holding company.

4 “(B) Any application by a savings and loan
5 holding company to engage in any activity (or
6 to acquire the shares of any company engaged
7 in any activity) for which the Director’s ap-
8 proval is required under subsection (c)(4)(A).

9 “(3) DENIAL OF APPLICATION.—The Director
10 may not approve an application which is subject to
11 this subsection (and, in the case of a notice of an
12 acquisition or activity for which the Director’s ap-
13 proval is not required, the Director shall disapprove
14 the acquisition or activity) if the Director determines
15 that the applicant or any bank or savings association
16 affiliate of the applicant has exhibited a pattern or
17 practice of opening or closing branches in a way that
18 tends to exclude low- and moderate-income or minor-
19 ity communities.”.

20 **SEC. 304. PATTERN OR PRACTICE TAKEN INTO ACCOUNT IN**
21 **CONNECTION WITH CERTAIN APPLICATIONS**
22 **FOR MERGERS AND ACQUISITIONS OF DE-**
23 **POSITORY INSTITUTIONS.**

24 Section 18(c) of the Federal Deposit Insurance Act
25 (12 U.S.C. 1828(c)) is amended—

1 (1) by redesignating paragraphs (9), (10), and
2 (11) as paragraphs (10), (11), and (12), respec-
3 tively; and

4 (2) by inserting after paragraph (8) the follow-
5 ing new paragraph:

6 “(9) PATTERN OR PRACTICE OF CLOSING DE-
7 POSIT FACILITIES.

8 “(A) IN GENERAL.—In considering an ap-
9 plication under paragraph (1) or (2), the re-
10 sponsible agency shall—

11 “(i) consider whether the applicant
12 during the 10 years prior to the filing of
13 the application, exhibited a pattern or
14 practice of opening or closing branches in
15 a way that tends to exclude low- or mod-
16 erate-income or minority neighborhoods;
17 and

18 “(ii) accept public comment for no
19 fewer than 90 days before making any de-
20 termination as to whether the applicant
21 has provided affordable and accessible de-
22 posit and branch banking services to low-
23 and moderate-income and minority con-
24 sumers within the applicant’s entire com-
25 munity.

1 “(B) DENIAL OF APPLICATION.—The re-
2 sponsible agency may not approve an applica-
3 tion under paragraph (1) or (2) if the agency
4 determines that the applicant depository insti-
5 tution has exhibited a pattern or practice of
6 opening or closing branches in a way that tends
7 to exclude low- and moderate-income or minor-
8 ity communities.”.

○

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